

STAFF REPORT
VACATION OF EASEMENT
Lots 1-26, Block 9, Rio Grande Ave

TO: Planning and Zoning Commission
FROM: Community Development Staff
DATE: June 25, 2014
RE: Vacation Application VF 14-3

PROCESS

The process for a vacation application is defined in the Subdivision Standards section of the *Land Development Code (LDC)* in Section 12.11. Vacation applications are subject to two public meetings. The first is a Public Hearing with the Planning and Zoning Commission, who shall make a recommendation to City Council to approve, approve with conditions, deny the application, or remand the application back to the applicant with instructions for modifications.

The second meeting is a public meeting (not a hearing) with City Council who shall consider the recommendation of the P&Z. Council shall approve, approve with conditions, deny the application, or remand the application back to the applicant.

APPLICATION

The applicant is Sweitzer Oil and Whetstone Associates. The request is to vacate an existing utility easement in the vacated north/south alley in Block 9, Rio Grande Addition, City and County of Gunnison, CO. The applicant's narrative states:

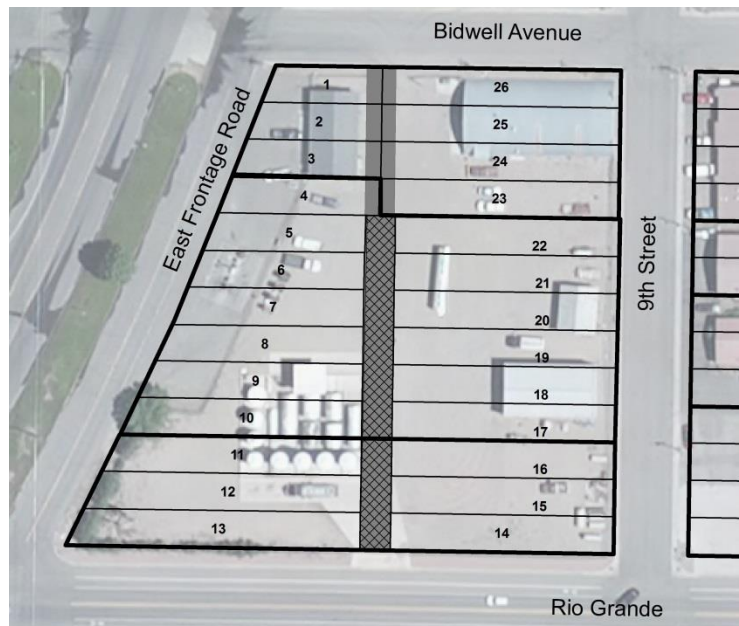
"The purpose of this letter is to request the removal of a utility easement that crosses Lots 1-26, Block 9, Rio Grande Addition. Lots 4-10 and 17-22 are presently under contract and Lots 1-3 and 23-26 were recently sold to Susan A. Wyman and Scott Effner (Whetstone & Associates). Both Whetstone & Associates (under contract to buy Lots 4, 5 and 22) and the buyer of the remaining lots would like to have the utility easement removed so they can construct improvements on the property. The removal of the easement is a condition of the purchase agreement.

...We have already had preliminary discussions about the easement and it appears there are no utilities running along that easement and utilities are accessible from the streets surrounding the lots."

SITE ASSESSMENT

The property is located in the Industrial zone district and has been historically used by Sweitzer Oil for bulk fuel sales. The Highway 50 frontage road bounds the site to the west, with Precision Alignment (vehicle repair) and the City Police Department and Dispatch Center to the north. Industrial uses and retail (The Last Chance) are located to the east and south with accommodation uses (Alpine Inn & Suites) also to the south within the Commercial zone district.

The north/south alley (hashed area adjoining Lots 5-22) was vacated by



STAFF REPORT
VACATION OF EASEMENT
Lots 1-26, Block 9, Rio Grande Ave

Ordinance No. 18, Series 1980, which also reserves a 20 foot wide non-exclusive utility easement. Additionally, a utility easement was granted by Sweitzer Oil, Inc. to the City of Gunnison that includes the vacated alley and an extension to the north (20 feet wide and 100 feet long) to Bidwell Avenue, for a total area that is 20 feet wide and 325 feet in length (shaded in grey).

The City does not have any utilities within this utility easement. All utilities are located in the streets surrounding Block 9 and future utilities are not planned within the easement.

CITY STAFF REVIEW

Police Chief: No issues.

Parks & Rec. Director: No issues.

Building Official: No issues.

Fire Marshall: No issues.

Public Works Director: No issues.

City Engineer: No issues.

Water & Sewer Superintendent: No issues.

Electric Superintendent: No issues.

STAFF OBSERVATIONS

1. The applicant is requesting to vacate a utility easement within Block 9, Rio Grande Addition.
2. The alley (adjacent to Lots 5-22) in Block 9 was vacated reserving a utility easement by Ordinance 18, Series 1980.
3. A grant of easement (Book 553, Page 858) was given to the City by Sweitzer Oil, Inc. that is 20' wide, within the vacated alley and extends north 100' to the south line of Bidwell Avenue for a total area that is 20' wide and 325' in length.
4. The City does not have any utilities located within the utility easement nor are any utilities planned at this location in the future.

REVIEW STANDARDS

The *Land Development Code* Section 12.11 E. contains four specific standards that must be met in order for a vacation of a recorded plat, right-of-way or easement to be approved.

1. Access to a Public Road. No roadway shall be vacated so as to leave any adjoining land without a means of access to another public road. Furthermore, there shall be an express reason for and a derived benefit to the City for a vacated roadway request.

No Conflict: The north/south alley was previously vacated by Ordinance 18, Series 1980. The vacation of the utility easement will not affect the access to a public road.

2. Easements. In granting a vacation, the City may reserve easements for the installation or maintenance of utilities, ditches and similar improvements.

No Conflict: The City reserved a 20' wide easement in Block 9 in 1980. The City does not have any utilities located in the easement and has no intention of future extensions through Block 9.

STAFF REPORT
VACATION OF EASEMENT
Lots 1-26, Block 9, Rio Grande Ave

3. Master Plan. A subdivision plat, public right-of-way or dedicated easement may be vacated if the vacation would be consistent with or implements the applicable intent statements, specific directions and recommended actions of the Master Plan.

Possible Conflict:

Chapter 8, Transportation, Policy 1.12: Discourage the vacation of alley or street rights of way in an effort to integrate them into multi-use travel corridors.

Chapter 9, Utilities and Infrastructure, Goal: The City will efficiently deliver its public utilities and continue to be fiscally responsible in the construction of high-quality public infrastructure, making forward-looking decisions that maintain low operational, maintenance and energy costs.

The vacation of this utility easement is consistent with the intent of the *City's Master Plan*.

4. Transfers or Sales of Lots. A subdivision plat may be vacated if none of its lots has been sold or transferred; or if there have been sales or transfers there has been no development on any lots in the subdivision and all of the owners agree to the vacation of the plat.

Not Applicable. A subdivision plat is not being vacated.

ACTION

During the regular Planning and Zoning Commission meeting held on June 25, 2014, Commissioner Cave moved, Commissioner Beda seconded, and the Commission voted to recommend APPROVAL to City Council of Vacation Application, VF 14-3 submitted by Sweitzer Oil and Whetstone & Associates, to vacate the utility easement within Block 9, Rio Grande Addition with the following findings of fact:

Findings of Fact:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents, staff reports, applicable provisions of the *City of Gunnison Master Plan* and *Land Development Code*, and written and verbal testimony submitted during the public hearing held for this application.
2. The Planning and Zoning Commission finds that the applicant requests to vacate an easement located within a previously vacated alley (City of Gunnison Ordinance 18, Series 1980).
3. The Planning and Zoning Commission finds that the applicant requests to retract a grant of easement from Sweitzer Oil, Inc. to the City of Gunnison (Book 553, Page 858) that includes the vacated north/south alley and strip 20' wide and 100' in length extending north of the vacated alley.
4. The Planning and Zoning Commission finds that utilities are not located within the easement and are not planned at this location in the future.
5. The vacation of this easement will not be a detriment to the health, safety and welfare of the community.